

CALIFORNIA APPRENTICESHIP COUNCIL
INITIAL STATEMENT OF REASONS
FOR PROPOSED ACTION TO AMEND
CALIFORNIA CODE OF REGULATIONS, TITLE 8, CHAPTER 2, PART IV,
SECTIONS 201, 202, 203, and 207.

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INITIAL STATEMENT OF REASONS

PURPOSE AND RATIONALE:

The California Apprenticeship Council ("Council") is charged with authority under Labor Code section 3071 to adopt regulations to interpret and make specific the provisions of Labor Code regarding apprentice agreements, also referred to as apprenticeship standards. Specifically, the Council is proposing changes to the administrative hearing process in particular as it relates to complaints by apprentices concerning disciplinary action taken by an apprentice committee. Under Labor Code section 3081, the Director of the Department of Industrial Relations, who is the Administrator of Apprenticeship, is charged with investigating claimed violations of the terms of existing apprentice agreements. The Director may hold hearings and any such investigations or hearings are to be under the rules and regulations of the California Apprenticeship Council ("CAC"). Current regulations do not distinguish between complaints by an apprentice that a program is not operating in accordance with its standards, and complaints by apprentices that they have been improperly disciplined. The current systems therefore makes the process of reviewing apprenticeship program actions more cumbersome and time consuming than is beneficial to either the program or the apprentice.

Tit. 8, California Code of Regulations, sections 201, 202, 203 and 207 ("Regulations 201, 202, 203 and 207") are the regulations by which the Council has provided an administrative process to challenge actions of an apprenticeship program sponsor. The Council has adopted amendments to Regulations 201, 202, 203 and 207, and a new 207.1 to provide as follows:

The proposed amendments to Regulation 207 and the new Regulation 207.1 provide a specific process for review of program actions terminating an apprentice agreement or imposing discipline on an apprentice. Under Labor Code section 3078 after the probation period an agreement can only be terminated by mutual agreement or by the Administrator of Apprenticeship. So, for example, a program may seek to terminate the agreement of an apprentice who has failed to attend classes. The apprentice may appeal that decision to the Administrator, and the decision of the administrator may be appealed to the CAC. The proposed regulations clarify that during the probation period the agreement may be cancelled by either party and is not subject to the appeal process set out in Regulation 207.1. The new Regulation 207.1 sets out time limits for filing appeals of a sponsor's request for termination and allow but do not mandate the Administrator to hold an evidentiary hearing.

The proposed amendments to Regulation 203 govern appeals to the CAC. The amendments clarify the role of the CAC in reviewing a decision by the Administrator of Apprenticeship and the standard to be used by the CAC.

The proposed amendments to Regulations 201 and 202 allow but do not mandate hearings when a complaint is filed alleging a violation of apprentice standards or the Labor Code or regulations. The amendments make changes in the investigation and hearing process, eliminate the requirement of a transcript of all hearings, and clarify that

the Administrator does not investigate violations of electrician certification under the Apprenticeship laws.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

The proposed action does not mandate the use of specific technologies or equipment.

TECHNICAL, THEORETICAL, EMPIRICAL, OR OTHER STUDIES:

The proposed action is not based on a consideration of any technical, theoretical, empirical or other studies.

ALTERNATIVES:

The Council has not formally considered alternatives to the proposed action. The public is invited to provide comments and suggestions regarding alternatives during the comment period. The proposed action is not expected to have an adverse impact on small business.